

Remarks/Arguments

This paper is submitted responsive to the Office Action mailed February 6, 2007. Reconsideration of the application in light of the accompanying remarks and amendments is respectfully requested.

In the aforesaid action, the Examiner rejected claims 1, 2, 19, 20, 48 and 49 as anticipated by US 4,821,719 to Fogerty (hereafter "Fogerty").

By the present amendment, claim 1 has been amended to specify that the hooked traction elements are of unitary construction with the tissue engaging contact surface. This is as described in the specification and as shown in the drawings, and it is submitted that this structural difference defines patentably over Fogerty. Fogerty teaches a series of woven hooks which are attached in to an underlying member. They are not molded into a single unitary construction as called for by amended claim 1. This single unitary construction is advantageous due to enhanced durability, cheaper manufacture and the like, and is not at all disclosed or suggested by Fogerty.

Claim 2 depends from claim 1 and is submitted to be allowable based upon the foregoing.

Claim 19 has been amended in similar fashion to claim 1, and is submitted to be allowable over Fogerty for the same reasons supporting claim 1.

Claim 20 depends from claim 19 and is submitted to be allowable based upon the foregoing.

Claims 48 and 49 are method claims calling for use of the structure of the present invention. By the present

amendment, these claims have been amended in similar manner to claim 1, so as to specify that the hooked traction elements are of unitary construction with the clamping/contact surface of claims 48 and 49 respectively. For similar reasons as set forth in support of claim 1, these claims are submitted to be allowable over Fogerty.

The Examiner next rejected claims 15-18 and 30-33 as obvious over Fogerty.

Claims 15, 17, 30 and 32 have been amended similarly to claim 1, and call for the traction elements to be a unitary construction with the contact surface, along with the specified tractive force. These claims are submitted to be allowable over Fogerty. Note the data in the specification which shows the clear advantage of the structures of the present invention as compared to commercial products such as the Fogerty product. It is submitted that these structures are clearly patentable over the art of record. Claims 16, 18, 31 and 33 depend from claims 15, 17, 30 and 32 respectively and are also believed to be allowable over Fogerty.

The Examiner next rejected claims 5-7, 23-25 and 42-47 as obvious based upon a combination of Fogerty and US 6,821,284 to Sturtz et al. (hereafter "Sturtz"). In this regard, it is noted that Sturtz is not prior art for the purposes of obviousness based upon 102(e) prior art, because it and the present invention were subject to assignment to the then owner at the time the present invention was made, and both Sturtz and the present application are both owned by the current assignee. Sturtz

formed a significant portion of the rejection put forth by the Examiner on these claims, and it is submitted that said claims are in fact allowable over the art of record. The specific dimensions and densities of the traction elements have been shown in the specification to produce excellent results as compared to various commercial products, including structures similar to the Fogerty disclosure, and thus the clear structural differences set forth in these claims produce desirable results. Claims 5-7, 23-25 and 42-47 are submitted to be allowable as amended.

Finally, the Examiner rejected claims 3, 8-13, 21, 26-29 and 34-41 as obvious over Fogerty combined with US 6,484,371 to Romanko et al. (hereafter "Romanko"). Of these, claims 3, 8-11, 21 and 26-29 depend directly or indirectly from a claim which is believed patentable for reasons set forth above. Thus, these dependent claims are likewise believed to be allowable over the art of record.

Independent claims 12, 13, 34 and 42-47 all call for specific features of the traction elements of the insert of the present invention. The Examiner has relied upon the teachings of Romanko for meeting the specific parameters set forth in the present claims. A review of Romanko shows that it deals with high strength flexible light weight hook and loop bundling straps. It is described as an improvement over conventional hook and loop fasteners. It is noted that such fasteners are functionally completely different from any structures related to the present invention. While the present invention uses similar structures for the desirable results obtained when such

surfaces are used to grasp tissue, Romanko merely teaches the use of such hook and loop structures as a fastener, that is, of a fastener of the hook and loop surfaces to each other. It is submitted that the completely different field of Romanko, coupled with the completely different operation of the Romanko disclosure, would not lead a person of skill in the art to combine any teachings of Romanko with the teachings of Fogerty. Romanko and Fogerty are simply not at all from the same field of endeavor, and there is no common link between the disclosures.

Based upon the foregoing, reconsideration of the rejection of independent claims 12, 13, 34 and 42, and dependent claims 43-47, is respectfully solicited.

An earnest and thorough effort has been made by the undersigned to resolve all issues in this application and to place same in condition for allowance. If, upon considering this paper, the Examiner believes that issues remain which could be addressed by telephone interview, the Examiner is invited to telephone the undersigned to discuss same.

Authorization of a deposit account charge for an extension of time accompanies this paper. Authorization is also presented for two extra independent claim fees. It is believed that no additional fee is due in connection with this paper. If, however, any additional fee or fee

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Respectfully submitted,

By /george a. coury/

George A. Coury

BACHMAN & LAPOINTE, P.C.

Reg. No. 34,309

Attorney for the Applicant(s)

Tel: (203) 777-6628

Fax: (203) 865-0297

Email: docket@bachlap.com

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